

CUOMO LLC
BY: OSCAR MICHELEN (OM 5199)
200 Old Country Road
Suite 2 South
Mineola, NY 11150-4242
Tel: 516-741-3222
Fax: 516 741-3223
Attorneys for Defendants

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JULIE DERMANSKY

Plaintiff,

-v-

**ANSWER TO
COMPLAINT**

AMMOLAND, INC.,

Case No. 18cv14141(FLW)(TJB)

Defendant.

X

The defendant AMMOLAND, INC., (“Defendant”) by and through its attorneys, Cuomo LLC, as and for their Answer to the Complaint of the Plaintiff in this action, respectfully sets forth and allege as follows, upon information and belief, based upon the files maintained in our office:

**RESPONSES WITH RESPECT TO THE
NATURE OF THE ACTION PARAGRAPH**

1. With respect to the allegations contained in Paragraph 1 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required. However, to the extent that a response may be deemed required, the Defendants deny knowledge or information sufficient to form a

belief as to the truth or falsity of the allegations contained in such Paragraph and respectfully refer all matters of law to the Court.

**RESPONSES WITH RESPECT TO THE
“JURISDICTION AND VENUE” PARAGRAPHS**

2. With respect to the allegations contained in Paragraph 2 of the Complaint, the Defendant states that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required. However, to the extent that a response may be deemed required, the Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph and respectfully refer all matters of law to the Court.

3. With respect to paragraph 3, the defendant does not contest personal jurisdiction.

4. With respect to paragraph 4, the defendant does not contest venue.

**RESPONSES WITH RESPECT TO THE
“THE PARTIES” PARAGRAPHS**

5. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 5 of the Complaint.

6. Defendant admits the allegations contained in Paragraph 6 of the Complaint.

**RESPONSES WITH RESPECT TO
“STATEMENT OF FACTS” PARAGRAPHS**

7. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 7 of the Complaint.

8. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 8 of the Complaint.

9. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 9 of the Complaint.

10. Defendant denies the allegations contained in Paragraph 10 of the Complaint.

11. With respect to the allegations contained in Paragraph 11 of the Complaint, the Defendants state that such allegations require conclusions of law to which no responsive pleading is required. However, to the extent that a response may be deemed required, the Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph and respectfully refer all matters of law to the Court.

**RESPONSES WITH RESPECT TO THE
FIRST CLAIM FOR RELIEF**

12. With respect to the allegations contained in Paragraph 12 of the Complaint, the Defendant states that the Defendant repeats and realleges the responses in all preceding paragraphs as if fully set forth herein.

13. Defendant denies the allegations contained in Paragraph 13 of the Complaint.

14. Defendant denies the allegations contained in Paragraph 14 of the Complaint.

15. Defendant denies the allegations contained in Paragraph 15 of the Complaint.

16. Defendant denies the allegations contained in Paragraph 16 of the Complaint.

17. Defendant denies the allegations contained in Paragraph 17 of the Complaint.

18. Defendant denies the allegations contained in Paragraph 18 of the Complaint.

AFFIRMATIVE AND OTHER DEFENSES

The Defendant asserts the following affirmative and other defenses without assuming any burden of production or proof that they would not otherwise have. The Defendant further asserts that, to the extent that the Plaintiff's claims as alleged are vague or unclear, so as to render it difficult or impossible to identify and assert every possible affirmative or other defense, the Defendant hereby expressly reserves the rights to assert additional defenses should further proceedings in this action, including the progress of any discovery, reveal that such additional defenses

AS AND FOR A FIRST DEFENSE TO THE PLAINTIFF'S COMPLAINT

Any use of the subject photograph constituted a fair use under the law

AS AND FOR A SECOND DEFENSE TO THE PLAINTIFF'S COMPLAINT

After its initial publication, the photograph had limited if any commercial value and would not have any license value in the marketplace

AS AND FOR A THIRD DEFENSE TO THE PLAINTIFF'S COMPLAINT

Any use of the photograph was de minimus

AS AND FOR A FOURTH DEFENSE TO THE PLAINTIFF'S COMPLAINT

Any damages caused by the use of the photograph were de minimus

AS AND FOR A FIFTH DEFENSE TO THE PLAINTIFF'S COMPLAINT

The Defendant states, in the alternative if necessary, that if it may be found to have violated any law or regulation, that any such violation was not willful.

AS AND FOR A SIXTH DEFENSE TO THE PLAINTIFF'S COMPLAINT

Had Plaintiff sought a license fee for the use of the image, Defendant would not have licensed the image.

AS AND FOR A SEVENTH DEFENSE TO THE PLAINTIFF'S COMPLAINT

The image had no commercial value as after its initial publication it has been proliferated across the Internet and plaintiff has failed to take reasonable steps to enforce any rights in the photograph

RESERVATION OF RIGHTS TO ASSERT ADDITIONAL DEFENSES

The Defendant states that it currently has insufficient knowledge or information on which to form a belief as to whether they may have additional, as yet unstated, defenses available. As such, the Defendant expressly reserves the right to assert additional defenses, and to seek to amend this Answer to include any such additional defenses, in the event that discovery indicates that any such additional defenses would be appropriate.

WHEREFORE defendant demand judgments in its favor, dismissal of the complaint, interest, costs and disbursements and such other and further relief as the court deems just and proper.

Dated: March 29, 2019

Respectfully submitted,

/s/ Oscar Michelen /s/

CUOMO LLC
BY: Oscar Michelen
Attorneys for Defendants
200 Old Country Road Suite 2 South
Mineola, NY 11501-4242
(516)741-3222 fax: (516)741-3223
Email: omichelen@cuomollc.com